

**OPINION
46-288**

January 23, 1946 (OPINION)

TEACHERS' RETIREMENT FUND

RE: Payments

Re: Teachers' Retirement Fund

You requested an opinion of this office as to whether or not a certain teacher is entitled to participate in the Teachers' Retirement Fund or not. The facts with reference to this teacher, as I understand it, are as follows: She taught twelve years in Minnesota, then came to North Dakota and taught here continuously eighteen years, the eighteen years ending in June 1944. She automatically joined the fund when she came to the state and has made all the necessary payments to entitle her to participate in the fund. She has now gone back to Minnesota and is teaching there. You ask whether or not the fact that she is teaching in Minnesota deprives her of the right to participate in fund, assuming that she has taught the necessary time, which she has, under the facts stated, and has made all the necessary payments.

It is my opinion that she is now entitled to participate in the benefits of the fund and that the fact that she is now teaching in Minnesota does not deprive her of that right. Under the present law, as it was amended in 1941, she has a choice in the manner of participation; the first provides for those who have reached the age of fifty and the other for those who have reached the age of fifty-five. The law also provides that those who have not reached the age of fifty-five may delay their application for participation until they arrive at the age of fifty-five, at which time they would be entitled to a pension of not to exceed \$750 a year.

NELS G. JOHNSON

Attorney General